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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/770,998	01/25/2001	David B. Montgomery	BILL.01P	7555

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EXAMINER

CAPRON, AARON J

ART UNIT	PAPER NUMBER
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3714

DATE MAILED: 10/29/2003

17

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/770,998

Applicant(s)

MONTGOMERY ET AL.

Examiner

Aaron J. Capron

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 September 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-52 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15, 17-25, 28-34 and 37-52 is/are rejected.
- 7) ☒ Claim(s) 16, 26, 27, 35 and 36 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. 6) ☐ Other: _____

DETAILED ACTION

This is a response to the Amendment received on September 26, 2003, in which claims 1, 10, 13 and 17 were amended, claims 20-52 were added. Claims 1-52 are pending.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 9-11, 13-14, 20-21, 23-25, 28, 30-34, 37, 39-52 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Itkis (U.S. Patent No. 4,856,787).

Itkis discloses an electronic gaming device having a plurality of games accessible to a user (Figure 4); a user-actuable input means in communication with the electronic gaming device to communicate an input signal from the user (Figure 5); a game controller in communication with the user actuable input means, the game controller substantially simultaneously initiating play and substantially simultaneously continuing play of multiple ones of the plurality of games in response to user activation thereof (2:12-16).

Claims 1-4, 10-11, 13-15, 17, 20-25, 28, 30 and 41-52 are rejected under 35 U.S.C. 102(b) as being anticipated by Moody et al. (U.S. Patent No. 5,976,016; hereafter "Moody").

Moody discloses an electronic gaming device having a plurality of games accessible to a user (Figure 3, lines 310,320,330,340 and 350); a user-actuable input means in communication with the electronic gaming device to communicate an input signal from the user; a game controller in communication with the user actuable input means, the game controller substantially simultaneously initiating play and substantially simultaneously continuing play of multiple ones of the plurality of games in response to user activation thereof (user selects the number of games to be played).

Referring to claim 2, Moody discloses the ability to play multiple games (Figure 3, lines 310,320,330,340 and 350) with each game outcome having the chance to win a differing amount from the pay table (Figure 3 and Table 1).

Referring to claim 3, as shown above, Moody discloses that an apparatus that includes a composite pay table defining a new game

Referring to claim 4, Moody discloses special bonus payouts for achieving multiple high ranking combinations at the same time (Moody 4:45-50).

Claims 10-11 correspond in scope to a gaming method set forth for use of gaming apparatus listed in the claims above and are encompassed by use as set forth in the rejection above.

Claims 13-14 and 17 correspond in scope to method set forth for use of gaming apparatus listed in the claims above and are encompassed by use as set forth in the rejection above.

Referring to claim 15, Moody discloses determining a payable for the selected number of games and wagers received (Table under column 4).

Claims 20-25, 28 and 30 correspond in scope to gaming device set forth for use of gaming apparatus listed in the claims above and are encompassed by use as set forth in the rejection above.

Referring to claim 41, Moody discloses the play of the multiple games is self contained in the gaming apparatus.

Referring to claim 42, Moody discloses a display configured to display substantially simultaneous play of the plurality of games.

Referring to claim 43, Moody discloses the multiple ones of games are independent games. The Examiner considers since each game has its own outcome, the games are deemed to be independent.

Referring to claim 44, Moody discloses the game controller generates the results of the games.

Claims 45-52 correspond in scope to method set forth for use of gaming apparatus listed in the claims above and are encompassed by use as set forth in the rejection above.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 5-8, 12, 18-19 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moody.

Referring to claims 5-8, Moody discloses a gaming machine, but does not disclose the game machine being in a networked environment. However, it is notoriously well known within the art of gaming machines that gaming machines can be set up in a networked environment; wherein information, such as wagers, paytables and payouts, is communicated to one of the plurality of machines within the networked environment in order for record keeping. One would be motivated to use a network environment having a plurality of gaming machines in order to monitor the gaming environment to ensure that the games are being played fairly. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate having a networked gaming environment into the gaming device of Moody in order to monitor the gaming environment to ensure that the games are being played fairly.

Claim 12 corresponds in scope to a gaming method set forth for use of gaming apparatus listed in the claims above and is encompassed by use as set forth in the rejection above.

Referring to claims 18-19, Moody discloses a gaming machine, but does not disclose having a progressive game. However, it is notoriously well known within the art of gaming machines to use progressive games in order to attract players that are drawn to the chance of a big payout. One would be motivated to provide a progressive jackpot to Moody's gaming machine in order to attract players that are drawn to the chance of a big payout. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate a progressive jackpot into Moody's gaming machine in order to attract players that are drawn to the chance of a big payout.

Claim 29 corresponds in scope to a gaming device set forth for use of gaming apparatus listed in the claims above and is encompassed by use as set forth in the rejection above.

Claim 38 is rejected under 35 U.S.C. 103(a) as being unpatentable over Itkis.

Referring to claim 38, Itkis discloses a gaming machine, but does not disclose having a progressive game. However, it is notoriously well known within the art of gaming machines to use progressive games in order to attract players that are drawn to the chance of a big payout. One would be motivated to provide a progressive jackpot to Itkis's gaming machine in order to attract players that are drawn to the chance of a big payout. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate a progressive jackpot into Itkis's gaming machine in order to attract players that are drawn to the chance of a big payout.

Allowable Subject Matter

Claims 16, 26-27 and 35-36 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments with respect to claims 1-52 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron J. Capron whose telephone number is (703) 305-3520.

The examiner can normally be reached on M-Th 8-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Hughes can be reached on (703) 308-1806. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

ajc



MARK SAGER
PRIMARY EXAMINER